



Government Employees Posted Abroad and Income Tax



Canada Revenue
Agency

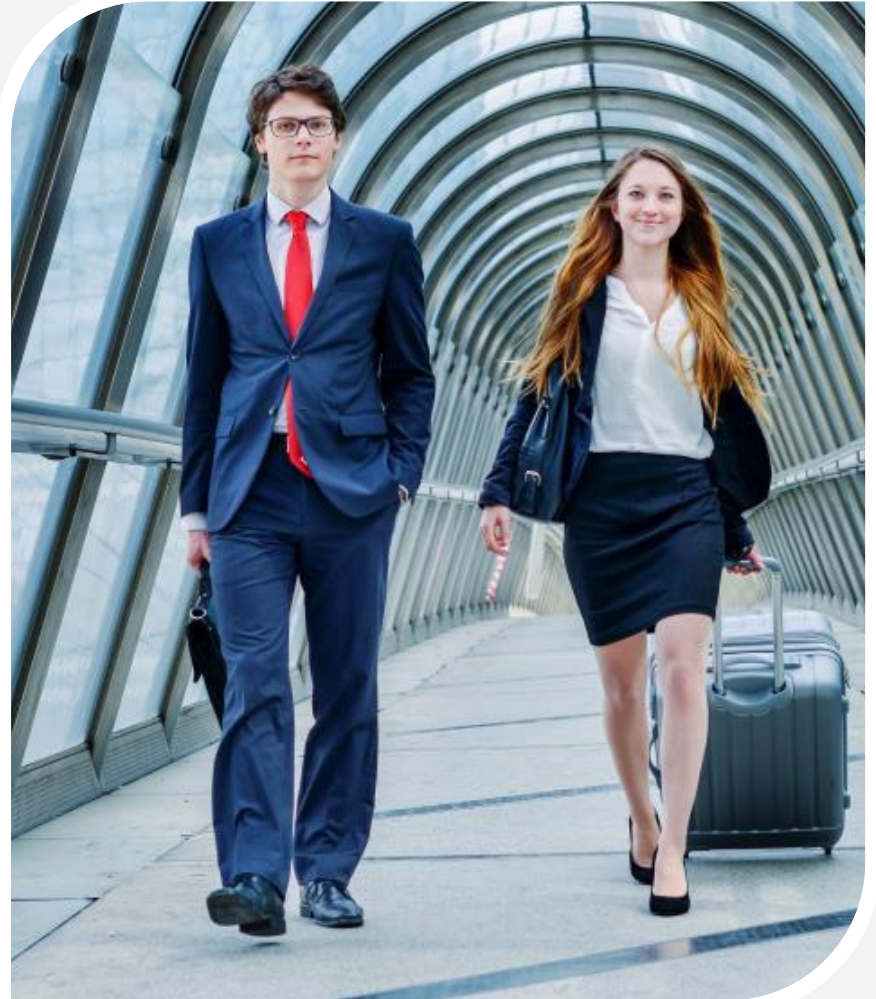
Agence du revenu
du Canada

Canada

WELCOME

This presentation is intended to provide an **introduction to key income tax topics** for government employees and their spouses who are posted abroad.

We will be starting at 10:30 a.m., Eastern time.



TOPICS

1. Residency for tax purposes
2. Tax obligations
3. Change of use of your principal residence
4. Rental income
5. Foreign income
6. Investments
7. Income splitting
8. Credits & Benefits

SECTION 1



Residency for tax purposes

Canada's tax system

- Based on residency, **not** citizenship
- Self-assessment system



Residency factors

- Residential ties with Canada
- Intention and purpose of stay abroad
- Regularity and length of visits to Canada
- Residential ties abroad



Residential ties

Primary (significant) residential ties:

- A home;
- A spouse or common-law partner; and
- Dependents

Secondary residential ties include:

- Personal property;
- Social ties;
- Economic ties;
- A driver's licence and passport;
- Health insurance

Residency status

- Factual resident
- Deemed resident
- Deemed non-resident
- Non-resident

Factual resident

- Generally **maintains** significant residential ties with Canada while abroad;
- Generally has the intention to return to Canada to live; and
- Generally has established a return date to Canada prior to leaving Canada.



Deemed resident

- Generally **severs** significant residential ties with Canada;
and
- Situation is defined under subsection 250(1) of the *Income Tax Act*, such as:
 - A member of the Canadian Forces
 - An officer or servant of Canada or a province

Non-resident

- Generally **severs** significant residential ties with Canada; and
- Situation is **not** defined under subsection 250(1) of the *Income Tax Act*; and
- Normally, customarily, or routinely lives in another country.

Deemed non-resident

Would otherwise be a **resident** of Canada, but under a **tax treaty** with Canada and the other country, is resident of that country.



Residency of the spouse of the member

- Determined based on the facts of each case
- Generally, **factual resident** or **non-resident**
- Deemed resident **under certain conditions:**
 - Paragraph 250(1)(g) of the *Income Tax Act*

Province or territory of residence

- Factual residents have a province or territory of residence.
- It is generally the province or territory where the significant ties are maintained.
- Generally, this is the province or territory where you ordinarily resided before you left Canada.

References

- S5-F1-C1, *Determining an Individual's Residence Status*
- Form NR73, *Determination of Residency Status (Leaving Canada)*
- Form NR74, *Determination of Residency Status (Entering Canada)*
- Subsection 250(1) of the *Income Tax Act*

SECTION 2



Tax obligations

Factual and deemed residents

- Taxable on income from all sources, both Canadian and foreign-sourced
- Eligible for all **federal** deductions and credits that apply
- Factual residents include a T1248, *Schedule D*

Non-resident and deemed non-resident

- Taxable on **Canadian-source** income during **non-resident** period
- Taxable on income from **all sources**, both Canadian and foreign-source, during **resident** period (if applicable)
- Subject to Part XIII non-resident withholding tax on certain Canadian-source income
- Federal deductions and credits are limited based on their residency requirements

Filing requirements

Factual resident

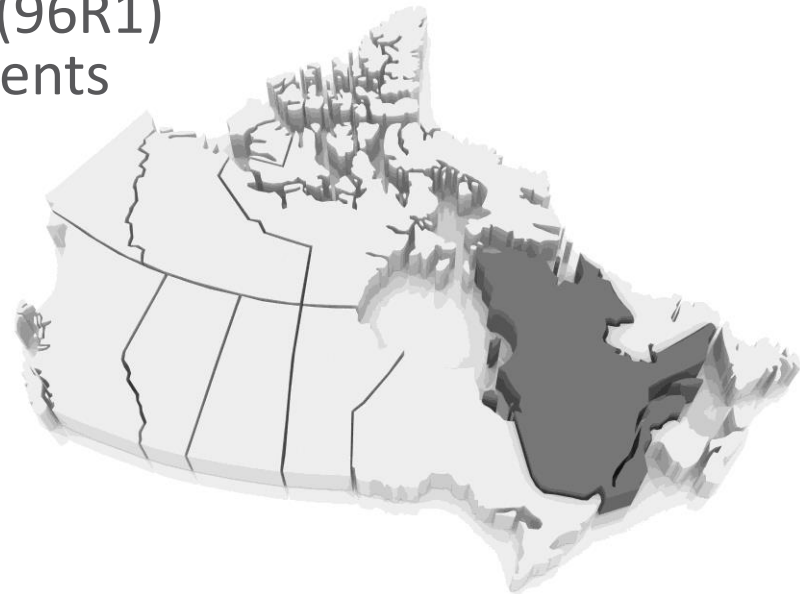
- Pays federal tax
- Pays provincial or territorial tax
- Tax package for the province or territory where residential ties are maintained

Deemed resident

- Pays federal tax
- Pays a federal surtax (48% of basic federal tax)
- Tax package for non-residents and deemed residents of Canada

Quebec resident before you left?

- Non-residents or deemed residents of Canada may still be liable to tax to the province of Quebec.
- May result in double taxation – federal non-resident surtax **and** Quebec provincial tax
- Québec provincial Remission Order (96R1) granted by Quebec to deemed residents of Canada who are members of the Canadian Forces.
- Federal Quebec Remission Order granted federally for cases in which income is taxable to Quebec



Filing due dates

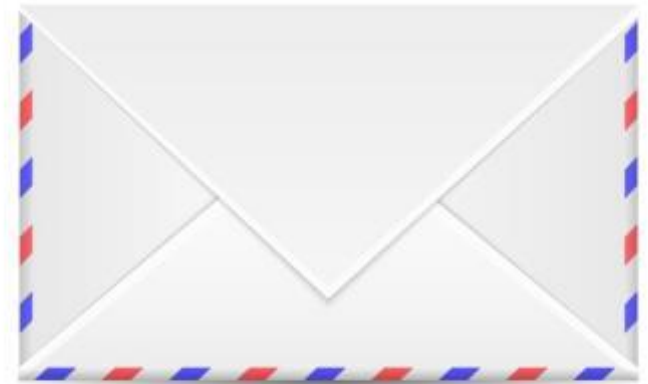
- April 30th in most cases
- June 15th for self-employed individuals or their spouses
- Due dates for non-resident elective returns vary
- In all cases, payment is due on April 30th



NETFILE restrictions

If you are in one of the following situations, you must send your return by mail:

- You are considered a deemed resident of Canada;
- You are an emigrant or non-resident of Canada;
- Your address is outside of Canada.



References

- T4058, *Non-Residents and Income Tax*
- 5000-G, *General Income Tax and Benefit Guide*
- 5013-G, *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*
- www.cra.gc.ca/international
- www.cra.gc.ca/netfile
- www.cra.gc.ca/importantdates

SECTION 3



Change of use of your principal residence

Renting your principal residence

- Deemed disposition and immediate reacquisition at the fair market value on the day the change of use occurs.
- Report the capital gain or loss (if applicable)
- Principal residence exemption
 - Form **T2091(IND)**, *Designation of a Property as a Principal Residence by an Individual (Other than a Personal Trust)*

Election under subsection 45(2)

- Deemed not to have made the change in use of the property
- Made by means of letter and filed with the return for the year in which the change of use occurred
- Cannot claim capital cost allowance
- Designate up to four years



ELECTION

References

- S1-F3-C2, Principal Residence
- T4037, Capital Gains
- Subsection 45(2) of the *Income Tax Act*
- www.cra.gc.ca/myhome

SECTION 4



Rental income

Factual or deemed resident

- Income is included in the General Income tax and Benefit Return
- Form T776, *Statement of Real Estate Rentals*
- May claim **capital cost allowance** on depreciable property



Rental expenses

Current expenses

- Restores to original condition
- Deductible when incurred

Capital expenses

- Improves the property's original condition
- Depreciated over a number of years

Non-resident

- Obtain an **agent** who is a Canadian resident
- Non-resident withholding account
- Remit Part XIII tax – 25% of the gross rental income (final obligation) indicated on an NR4
- NR6, *Undertaking to File an Income Tax Return by a Non-Resident Receiving Rent from Real or Immovable Property or Receiving a Timber Royalty*
- Election under section 216

Emigrant

- Rental income earned during the resident period is reporting on the General Income Tax and Benefit Return.
- Rental income earned during the non-resident period is subject to Part XIII tax.
- T1161, *List of Properties by an Emigrant of Canada*



References

- T4036, *Rental Income*
- www.cra.gc.ca/rental
- T4144, *Income Tax Guide for Electing Under Section 216*
- T4061, NR4 – *Non-Resident Tax Withholding, Remitting, and Reporting*
- Form T776, *Statement of Real Estate Rentals*

SECTION 5



Foreign income

Factual or deemed resident

- Taxable on income from all sources both Canadian and foreign-source
- Subject to the provisions of the tax treaty between Canada and the other country (if applicable)
- Federal and Provincial or Territorial foreign tax credit

Foreign tax credit (FTC)

Paid tax on foreign-source income or profits to a foreign country and reported on Canadian tax return?

In most cases, the FTC is the lesser of:

- The foreign income tax you paid; or
 - The tax due to Canada on your net income from that country.
- **T2209**, *Federal Foreign Tax Credit*
 - **T2036**, *Provincial or Territorial Foreign Tax Credit*



Proof of foreign taxes paid

- Recognized taxes are generally defined under Article 2 of the tax treaty
- Acceptable proof:
 - Notice of Assessment
 - Foreign information slip
 - Copy of assessed return



References

- S5-F2-C1, *Foreign Tax Credit*
- www.bankofcanada.ca/rates/exchange
- www.cra.gc.ca/treaties

SECTION 6



Investments

Tax-free savings account

- **Factual** and **deemed** residents may contribute and withdraw under the same rules as a resident.
- **Non-residents** may not contribute during the non-resident period
 - 1% tax per month on non-resident contributions
 - Will not accumulate contribution room if non-resident for the entire year
- Contribution room is **not** pro-rated in the newcomer or emigrant year



RRSP



- All persons residing outside of Canada can purchase RRSPs, as long as they have the deduction limit available.
- Deduction limit is calculated based on earned income for RRSP purposes that is reported on a return.
- Withdrawn funds from an RRSP is taxed based on residency status.

Home Buyers' Plan (HBP) Lifelong Learning Plan (LLP)

When you emigrate from Canada, you have to repay the balance under an HBP or LLP by the earlier of:

- 60 days after you become a non-resident; or
- The date you file your return for the year.

Otherwise, you have to include the unpaid amount as RRSP income.

Non-residents

- Responsible for informing all payers of non-resident status
- Subject to a **25% non-resident withholding tax** at source (unless reduced by a tax treaty) on passive forms of income such as:
 - Pension income
 - RRSP income
 - Dividends
 - Employment insurance
- Non-resident withholding tax represents final obligation to Canada on that income
- Election under section 217

References

- www.cra.gc.ca/tfsa
- www.cra.gc.ca/rrsp
- *T4040, RRSPs and Other Registered Plans for Retirement*
- www.cra.gc.ca/hbp
- www.cra.gc.ca/international
- *T4145, Electing Under Section 217 of the Income Tax Act*

SECTION 7



Income splitting

Eligibility

You were married or living common-law, and:

- You were not living apart because of a breakdown in your relationship for a period of 90 days or more including December 31 of the tax year;
- You were **both residents** of Canada on December 31 of the tax year; and
- You both file a return for the year the credit is claimed.

You **must also** ordinarily live throughout the year with your child who is under 18 years old at the end of the year.

Restrictions

You **cannot** claim this credit if:

- You are confined to a prison or similar institution for a period of 90 days or more during the year;
- Your spouse or common-law partner is claiming the credit for the year;
- Either you or your spouse or common-law partner became bankrupt in the year; or
- Either you or your spouse or common-law partner has elected to split eligible pension income.

SECTION 8



Credits & Benefits

For factual residents

- Subject to the same rules as a resident for all federal credits & benefits such as, GST/HST credit, as well as credits and benefits for families with children or dependants.
- Generally eligibility for provincial credits & benefits as if resident.
- Must file a return each year.



For deemed residents

- Subject to the same rules as a resident for all federal credits & benefits such as, GST/HST credit, as well as credits and benefits for families with children or dependants.
- Not eligible for credits & benefits from any related provincial or territorial program.
- Must file a return each year.

Spouse or common-law partner of the member is non-resident?

Generally, a non-resident is ineligible for federal benefits and any related provincial or territorial program.

Exception:

Child tax benefits (CTB), if:

- Female spouse is the non-member;
- Female presumption rule: primary caregiver of child;
- Cohabiting spouse or common-law partner of a deemed resident; and
- Resident in Canada in any preceding taxation year.

Non-resident spouse or common-law partner and CTB

- Must file the Form **CTB9**, *Canada Child Tax Benefit - Statement of Income*, for each year or part of a year he or she is a non-resident of Canada
- If you have a child within two years of returning to Canada, complete Form **RC66**, *Canada Child Benefits Application*, **and** schedule **RC66SCH**, *Status in Canada/Statement of Income*.

References

- www.cra.gc.ca/cctb
- www.cra.gc.ca/international
- www.cra.gc.ca/benefits-prov-terr
- Section 122.6 of the *Income Tax Act*

SECTION 9



For more information and to get help

Contact us

By mail:

International and Ottawa Tax Services Office
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Ottawa, On
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By telephone:

1-613-940-8495
1-613-940-8496
1-800-959-8281
1-800-959-7383

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By telephone

- 1-800-267-6299 (Canada / US)
- 1-418-659-6299 (Outside Canada / US)

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